

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**DERRICK T. TOLIVER,**

Plaintiff,

v.

No. 3:16-cv-02034-JR

OPINION AND ORDER

**SHARON BRENNAN;** et al.,

Defendants,

v.

**OREGON DEPARTMENT OF  
CORRECTIONS,**

Respondent.

**MOSMAN, J.,**

On November 25, 2019, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”) [ECF 141], recommending that I grant Defendants’ Request for Judicial Notice [ECF 126] and Motion for Summary Judgment [ECF 128]. Plaintiff Derrick T. Toliver filed objections [ECF 147], to which Defendants responded [ECF 148].

**LEGAL STANDARD**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of

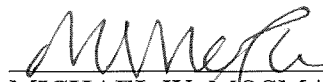
the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review of the F&R, I fully agree with Judge Russo's reasoning and conclusions. Therefore, I ADOPT the F&R [141] as my own opinion. I GRANT Defendants' Request for Judicial Notice [126] and I GRANT Defendants' Motion for Summary Judgment [128]. This case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 5<sup>th</sup> day of March, 2020.

  
MICHAEL W. MOSMAN  
United States District Judge